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**SUBSTITUTE HOUSE BILL 1028**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** House Community Safety, Justice, & Reentry (originally sponsored by Representatives Orwall, Mosbrucker, Ryu, Simmons, Goodman, Reed, Lekanoff, Pollet, Callan, Doglio, Macri, Caldier, Reeves, Wylie, Gregerson, Davis, Ormsby, and Fosse)

AN ACT Relating to supporting crime victims and witnesses by promoting victim-centered, trauma-informed responses in the legal system; amending RCW 5.70.040, 5.70.050, 9A.04.080, 43.101.272, 43.101.276, 43.101.278, 7.68.170, 43.43.545, 7.68.380, 43.185C.260, and 7.69.030; adding a new section to chapter 43.10 RCW; adding new sections to chapter 43.101 RCW; adding a new section to chapter 70.02 RCW; adding a new section to chapter 7.68 RCW; creating a new section; repealing RCW 43.101.270; providing an effective date; and providing expiration dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**PART I**

**INVESTIGATIONS AND PROSECUTIONS OF SEXUAL ASSAULT CASES**

NEW SECTION. **Sec.**  The legislature recognizes that sexual assault is a devastating crime affecting thousands of Washingtonians. For this reason, the state has engaged in a multiyear effort to implement victim-centered and trauma-informed practices for responding to sexual assault across the criminal justice system. With the support of state funding and the sexual assault kit initiative, the Washington state crime laboratory has conducted the testing of over 10,000 previously unsubmitted sexual assault kits, and has expanded testing capacity to ensure all sexual assault kits will be tested within 45 days of submission going forward. Yet testing alone is not enough.

Each report of sexual assault should be investigated at the local level, regardless of the status of any sexual assault kit. All sexual assault survivors deserve to be treated with respect and dignity, including through a trauma-informed, good-faith investigation of every report of sexual assault. Further, thorough and professional investigations are imperative for public safety. Recent research demonstrates that the majority of perpetrators commit multiple assaults over their lifetime. Despite this, perpetrators often evade accountability and prosecution. This needs to change. By improving forensic testing, conducting thorough investigations of each report, and implementing best practices for all practitioners, the state can successfully bring perpetrators to justice and prevent further victimization. Therefore, the legislature intends to expand efforts to improve investigations and prosecutions by requiring timely investigations of sexual assault cases with CODIS hits, and requiring regular reporting on the status of those cases. Access to these reports will provide policymakers and practitioners with critical insights as implementation continues with broader reform efforts.

**Sec.**  RCW 5.70.040 and 2020 c 26 s 4 are each amended to read as follows:

(1) When a law enforcement agency receives a sexual assault kit, the law enforcement agency must, within thirty days of its receipt, submit a request for laboratory examination to the Washington state patrol crime laboratory for prioritization for testing by it or another accredited laboratory that holds an outsourcing agreement with the Washington state patrol if:

(a) The law enforcement agency has received a related report or complaint alleging a sexual assault or other crime has occurred; and

(b)(i) Consent for laboratory examination has been given by the victim; or

(ii) The victim is a person under the age of eighteen who is not emancipated pursuant to chapter 13.64 RCW.

(2) Beginning May 1, 2022, when the Washington state patrol receives a request for laboratory examination of a sexual assault kit from a law enforcement agency, the Washington state patrol shall conduct the laboratory examination of the sexual assault kit, and when appropriate, enter relevant information into the combined DNA index system, within forty-five days of receipt of the request. The Washington state patrol crime laboratory must give priority to the laboratory examination of sexual assault kits at the request of a local law enforcement agency for:

(a) Active investigations and cases with impending court dates;

(b) Active investigations where public safety is an immediate concern;

(c) Violent crimes investigations, including active sexual assault investigations;

(d) Postconviction cases; and

(e) Other crimes' investigations and nonactive investigations, such as previously unsubmitted older sexual assault kits or recently collected sexual assault kits that the submitting agency has determined to be lower priority based on their initial investigation.

(3) The requirements to request and complete laboratory examination of sexual assault kits under subsections (1) and (2) of this section do not include forensic toxicological analysis. However, nothing in this section limits or modifies the authority of a law enforcement agency to request toxicological analysis of evidence collected in a sexual assault kit.

(4) When forensic analysis of a sexual assault kit submitted under this section generates a profile resulting in a hit in the combined DNA index system, the applicable law enforcement agency shall, within 90 days of receiving the results of the forensic analysis, initiate a criminal investigation of any report connected to the sexual assault kit or document why the investigation could not be initiated, unless the investigation has already been initiated.

(5) The failure of a law enforcement agency ((~~to submit a request for laboratory examination,~~)) or the ((~~failure of the~~)) Washington state patrol to ((~~facilitate laboratory examination,~~)) complete the requirements under this section within the time periods prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault kit may not be excluded by a court on those grounds.

((~~(5)~~)) (6) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

((~~(6)~~)) (7) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

((~~(7)~~)) (8) This section applies to sexual assault examinations performed on or after July 24, 2015.

((~~(8)(a) Until June 30, 2023, the~~)) (a) The Washington state patrol shall compile the following information related to the sexual assault kits identified in this section and RCW 5.70.050:

(i) The total number of requests and the number of requests occurring in the previous 12 months for laboratory examination ((~~made for~~)) of sexual assault kits and the law enforcement agencies that submitted the requests; ((~~and~~))

(ii) The progress made towards testing the sexual assault kits, including the status of requests for laboratory examination made by each law enforcement agency; and

(iii) The total number of hits and the number of hits occurring in the previous 12 months in the combined DNA index system connected to forensic analysis of sexual assault kits under this section.

(b) The ((~~Washington state patrol shall make recommendations for increasing the progress on testing any untested sexual assault kits.~~

~~(c) Beginning in 2015, the~~)) Washington state patrol shall submit an annual report ((~~its findings and recommendations annually~~)) with the information required by this section to the appropriate committees of the legislature and the governor by ((~~December 1st~~)) July 31st of each year.

(c) The Washington state patrol may submit the information under (a) of this subsection with the report required by RCW 43.43.545, in which case a separate report under this section is not required.

**Sec.**  RCW 5.70.050 and 2020 c 26 s 5 are each amended to read as follows:

(1) Law enforcement agencies shall submit requests for forensic analysis of all sexual assault kits collected prior to July 24, 2015, and in the possession of the agencies to the Washington state patrol crime laboratory by October 1, 2019, except submission for forensic analysis is not required when: (a) Forensic analysis has previously been conducted; (b) there is documentation of an adult victim or emancipated minor victim expressing that he or she does not want his or her sexual assault kit submitted for forensic analysis; or (c) a sexual assault kit is noninvestigatory and held by a law enforcement agency pursuant to an agreement with a hospital or other medical provider. The requirements of this subsection apply regardless of the statute of limitations or the status of any related investigation.

(2) The Washington state patrol crime laboratory may consult with local law enforcement agencies to coordinate the efficient submission of requests for forensic analysis under this section in conjunction with the implementation of the statewide tracking system under RCW 43.43.545, provided that all requests are submitted and all required information is entered into the statewide sexual assault tracking system by October 1, 2019. The Washington state patrol crime laboratory shall facilitate the forensic analysis of all sexual assault kits submitted under this section by December 1, 2021. The analysis may be conducted by the Washington state patrol laboratory or an accredited laboratory holding a contract or agreement with the Washington state patrol. The Washington state patrol shall process the forensic analysis of sexual assault kits in accordance with the priorities in RCW 5.70.040(2).

(3) The requirements to request and complete laboratory examination of sexual assault kits under this section do not include forensic toxicological analysis. However, nothing in this section limits or modifies the authority of a law enforcement agency to request toxicological analysis of evidence collected in a sexual assault kit.

(4) When forensic analysis of a sexual assault kit submitted under this section generates a profile resulting in a hit in the combined DNA index system, the applicable law enforcement agency shall, within 90 days of receiving the results of the forensic analysis, initiate a criminal investigation of any report connected to the sexual assault kit or document why the investigation could not be initiated, unless the investigation has already been initiated.

(5) The failure of a law enforcement agency to ((~~submit a request for laboratory examination~~)) comply with the requirements under this section within the time prescribed under this section does not constitute grounds in any criminal proceeding for challenging the validity of a DNA evidence association, and any evidence obtained from the sexual assault kit may not be excluded by a court on those grounds.

((~~(5)~~)) (6) A person accused or convicted of committing a crime against a victim has no standing to object to any failure to comply with the requirements of this section, and the failure to comply with the requirements of this section is not grounds for setting aside the conviction or sentence.

((~~(6)~~)) (7) Nothing in this section may be construed to create a private right of action or claim on the part of any individual, entity, or agency against any law enforcement agency or any contractor of any law enforcement agency.

**Sec.**  RCW 9A.04.080 and 2022 c 282 s 4 are each amended to read as follows:

(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section.

(a) The following offenses may be prosecuted at any time after their commission:

(i) Murder;

(ii) Homicide by abuse;

(iii) Arson if a death results;

(iv) Vehicular homicide;

(v) Vehicular assault if a death results;

(vi) Hit-and-run injury-accident if a death results (RCW 46.52.020(4));

(vii) Rape in the first degree (RCW 9A.44.040) if the victim is under the age of sixteen;

(viii) Rape in the second degree (RCW 9A.44.050) if the victim is under the age of sixteen;

(ix) Rape of a child in the first degree (RCW 9A.44.073);

(x) Rape of a child in the second degree (RCW 9A.44.076);

(xi) Rape of a child in the third degree (RCW 9A.44.079);

(xii) Sexual misconduct with a minor in the first degree (RCW 9A.44.093);

(xiii) Custodial sexual misconduct in the first degree (RCW 9A.44.160);

(xiv) Child molestation in the first degree (RCW 9A.44.083);

(xv) Child molestation in the second degree (RCW 9A.44.086);

(xvi) Child molestation in the third degree (RCW 9A.44.089); and

(xvii) Sexual exploitation of a minor (RCW 9.68A.040).

(b) Except as provided in (a) of this subsection, the following offenses may not be prosecuted more than twenty years after its commission:

(i) Rape in the first degree (RCW 9A.44.040);

(ii) Rape in the second degree (RCW 9A.44.050); or

(iii) Indecent liberties (RCW 9A.44.100).

(c) The following offenses may not be prosecuted more than ten years after its commission:

(i) Any felony committed by a public officer if the commission is in connection with the duties of his or her office or constitutes a breach of his or her public duty or a violation of the oath of office;

(ii) Arson if no death results;

(iii) Rape in the third degree (RCW 9A.44.060);

(iv) Attempted murder; or

(v) Trafficking under RCW 9A.40.100.

(d) A violation of any offense listed in this subsection (1)(d) may be prosecuted up to ten years after its commission or, if committed against a victim under the age of eighteen, up to the victim's thirtieth birthday, whichever is later:

(i) RCW 9.68A.100 (commercial sexual abuse of a minor);

(ii) RCW 9.68A.101 (promoting commercial sexual abuse of a minor);

(iii) RCW 9.68A.102 (promoting travel for commercial sexual abuse of a minor); or

(iv) RCW 9A.64.020 (incest).

(e) The following offenses may not be prosecuted more than six years after its commission or discovery, whichever occurs later:

(i) Violations of RCW 9A.82.060 or 9A.82.080;

(ii) Any felony violation of chapter 9A.83 RCW;

(iii) Any felony violation of chapter 9.35 RCW;

(iv) Theft in the first or second degree under chapter 9A.56 RCW when accomplished by color or aid of deception;

(v) Theft from a vulnerable adult under RCW 9A.56.400;

(vi) Trafficking in stolen property in the first or second degree under chapter 9A.82 RCW in which the stolen property is a motor vehicle or major component part of a motor vehicle as defined in RCW 46.80.010; or

(vii) Violations of RCW 82.32.290 (2)(a)(iii) or (4).

(f) The following offenses may not be prosecuted more than five years after its commission: Any class C felony under chapter 74.09, 82.36, or 82.38 RCW.

(g) Bigamy may not be prosecuted more than three years after the time specified in RCW 9A.64.010.

(h) A violation of RCW 9A.56.030 may not be prosecuted more than three years after the discovery of the offense when the victim is a tax exempt corporation under 26 U.S.C. Sec. 501(c)(3).

(i) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.

(j) No gross misdemeanor may be prosecuted more than two years after its commission.

(k) No misdemeanor may be prosecuted more than one year after its commission.

(2) The periods of limitation prescribed in subsection (1) of this section do not run during any time when the person charged is not usually and publicly resident within this state.

(3) In any prosecution for a sex offense as defined in RCW 9.94A.030, the periods of limitation prescribed in subsection (1) of this section run from the date of commission or ((~~two~~)) four years from the date on which the identity of the suspect is conclusively established by deoxyribonucleic acid testing or by photograph as defined in RCW 9.68A.011, whichever is later.

(4) If, before the end of a period of limitation prescribed in subsection (1) of this section, an indictment has been found or a complaint or an information has been filed, and the indictment, complaint, or information is set aside, then the period of limitation is extended by a period equal to the length of time from the finding or filing to the setting aside.

NEW SECTION. **Sec.**  A new section is added to chapter 43.10 RCW to read as follows:

(1)(a) The sexual assault forensic examination best practices advisory group is established within the office of the attorney general for the purpose of reviewing best practice models for managing all aspects of sexual assault investigations and for reducing the number of untested sexual assault kits in Washington state.

(i) The caucus leaders from the senate shall appoint one member from each of the two largest caucuses of the senate.

(ii) The caucus leaders from the house of representatives shall appoint one member from each of the two largest caucuses of the house of representatives.

(iii) The attorney general, in consultation with the legislative members of the advisory group, shall appoint:

(A) One member representing each of the following:

(I) The Washington state patrol;

(II) The Washington association of sheriffs and police chiefs;

(III) The Washington association of prosecuting attorneys;

(IV) The Washington defender association or the Washington association of criminal defense lawyers;

(V) The Washington association of cities;

(VI) The Washington association of county officials;

(VII) The Washington coalition of sexual assault programs;

(VIII) The office of crime victims advocacy;

(IX) The Washington state hospital association;

(X) The office of the attorney general; and

(XI) The criminal justice training commission;

(B) Two members representing survivors of sexual assault;

(C) One member who is a sexual assault nurse examiner;

(D) Two members who are law enforcement officers, one from a rural area and one from an urban area of the state;

(E) One member who is a prosecuting attorney serving in a county in a rural area of the state; and

(F) Two members who are community-based advocates, one from a rural area and one from an urban area of the state.

(b) When appointing members under (a)(iii)(D) of this subsection, the office of the attorney general shall solicit recommendations from statewide labor organizations representing law enforcement officers.

(2) The duties of the advisory group include, but are not limited to:

(a) Researching the best practice models both in state and from other states for collaborative responses to victims of sexual assault from the point the sexual assault kit is collected to the conclusion of the investigation and prosecution of a case, and providing recommendations regarding any existing gaps in Washington and resources that may be necessary to address those gaps;

(b) Researching and making recommendations on opportunities to increase access to, and availability of, critical sexual assault nurse examiner services;

(c) Monitoring the testing of the backlog of sexual assault kits and the supply chain and distribution of sexual assault kits;

(d) Monitoring implementation of state and federal legislative changes;

(e) Collaborating with the legislature, state agencies, medical facilities, and local governments to implement reforms pursuant to federal grant requirements; and

(f) Making recommendations for institutional reforms necessary to prevent sexual assault and improve the experiences of sexual assault survivors in the criminal justice system.

(3) The office of the attorney general shall administer and provide staff support to the advisory group.

(4) Legislative members of the advisory group must be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(5) The advisory group must meet no less than twice annually.

(6) The advisory group shall report its findings and recommendations to the appropriate committees of the legislature and the governor by December 15th of each year.

(7) This section expires July 1, 2026.

NEW SECTION. **Sec.**  A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall administer a grant program for establishing a statewide resource prosecutor for sexual assault cases.

(2) The grant recipient must be a statewide organization or association representing prosecuting attorneys. The grant recipient shall hire a resource prosecutor for the following purposes:

(a) To provide technical assistance and research to prosecutors for prosecuting sexual assault cases;

(b) To provide additional training and resources to prosecutors to support a trauma-informed, victim-centered approach to prosecuting sexual assault cases;

(c) To meet regularly with law enforcement agencies and prosecutors to explain legal issues and prosecutorial approaches to sexual assault cases and provide and receive feedback to improve case outcomes;

(d) To consult with the commission, the office of the attorney general, and the sexual assault forensic examination best practices advisory group under section 5 of this act with respect to developing and implementing best practices for prosecuting sexual assault cases across the state; and

(e) To comply with other requirements established by the commission under this section.

(3) The commission may, in consultation with the sexual assault forensic examination best practices advisory group under section 5 of this act, establish additional appropriate conditions for any grant awarded under this section. The commission may adopt necessary policies and procedures to implement and administer the grant program, including monitoring the use of grant funds and compliance with the grant requirements.

**PART II**

**TRAINING**

**Sec.**  RCW 43.101.272 and 2019 c 93 s 5 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall provide ongoing specialized, intensive, and integrative training for persons responsible for investigating sexual assault ((~~cases~~)) and other gender-based violence involving adult victims, and the highest ranking supervisors and commanders overseeing sexual assault and other gender-based violence investigations. The training must be based on a victim-centered, trauma-informed approach to responding to sexual assault. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques.

(2) The training must: Be based on research-based practices and standards; offer participants an opportunity to practice interview skills and receive feedback from instructors; minimize the trauma of all persons who are interviewed during abuse investigations; provide methods of reducing the number of investigative interviews necessary whenever possible; assure, to the extent possible, that investigative interviews are thorough, objective, and complete; recognize needs of special populations; recognize the nature and consequences of victimization; require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances; address record retention and retrieval; address documentation of investigative interviews; and educate investigators on the best practices for notifying victims of the results of forensic analysis of sexual assault kits and other significant events in the investigative process, including for active investigations and cold cases.

(3) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault, gender-based violence, and the neurobiology of trauma. The commission shall consult with the Washington association of prosecuting attorneys in an effort to design training containing consistent elements for all professionals engaged in interviewing and interacting with sexual assault victims in the criminal justice system.

(4) ((~~The commission shall develop the training and begin offering it by July 1, 2018.~~)) Officers assigned to regularly investigate sexual assault and other gender-based violence involving adult victims and the highest ranking supervisors and commanders overseeing those investigations shall complete the training within one year of being assigned ((~~or by July 1, 2020, whichever is later~~)).

**Sec.**  RCW 43.101.276 and 2017 c 290 s 5 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall develop peace officer training on a victim-centered, trauma-informed approach to interacting with victims and responding to ((~~sexual assault~~)) calls involving gender-based violence. The curriculum must: Be ((~~designed for commissioned patrol officers not regularly assigned to investigate sexual assault cases; be~~)) designed for deployment and use within individual law enforcement agencies; include features allowing for it to be used in different environments, which may include multimedia or video components; and allow for law enforcement agencies to host it in small segments at different times over several days or weeks, including roll calls. The training must include components on available resources for victims including, but not limited to, material on and references to community-based victim advocates.

(2) In developing the training, the commission shall seek advice from the Washington association of sheriffs and police chiefs, the Washington coalition of sexual assault programs, and experts on sexual assault, gender-based violence, and the neurobiology of trauma.

(3) ((~~Beginning in 2018, all law enforcement agencies shall annually host the training for commissioned peace officers. All law enforcement agencies shall, to the extent feasible, consult with and feature local community-based victim advocates during the training.~~)) All peace officers shall complete the training under this section at least once every three years.

**Sec.**  RCW 43.101.278 and 2021 c 118 s 3 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall conduct an annual case review program. The program must review case files from law enforcement agencies and prosecuting attorneys selected by the commission in order to identify changes to training and investigatory practices necessary to optimize outcomes in sexual assault investigations and prosecutions involving adult victims. The program must include:

(a) An evaluation of whether current training and practices foster a trauma-informed, victim-centered approach to victim interviews and that identifies best practices and current gaps in training and assesses the integration of the community resiliency model;

(b) A comparison of cases involving investigators and interviewers who have participated in training to cases involving investigators and interviewers who have not participated in training;

(c) A comparison of cases involving prosecutors who have participated in the training described in section 10 of this act to cases involving prosecutors who have not participated in such training;

(d) Randomly selected cases for a systematic review to assess whether current practices conform to national best practices for a multidisciplinary approach to investigating and prosecuting sexual assault cases and interacting with survivors; and

((~~(d)~~)) (e) An analysis of the impact that race and ethnicity have on sexual assault case outcomes.

(2) The case review program may review and access files, including all reports and recordings, pertaining to closed cases involving allegations of adult sexual assault only. Any law enforcement agency or prosecuting attorney selected for the program by the commission shall make requested case files and other documents available to the commission, provided that the case files are not linked to ongoing, open investigations and that redactions may be made where appropriate and necessary. Agencies and prosecuting attorneys shall include available information on the race and ethnicity of all sexual assault victims in the relevant case files provided to the commission. Case files and other documents must be made available to the commission according to appropriate deadlines established by the commission in consultation with the agency or prosecuting attorney.

(3) If a law enforcement agency has not participated in the training under RCW 43.101.272 ((~~by July 1, 2022~~)) or 43.101.276 within the previous 24 months, the commission may prioritize the agency for selection to participate in the program under this section.

(4) In designing and conducting the program, the commission shall consult and collaborate with experts in trauma-informed and victim-centered training, experts in sexual assault investigations and prosecutions, victim advocates, and other stakeholders identified by the commission. The commission may form a multidisciplinary working group for the purpose of carrying out the requirements of this section.

(5) The commission shall submit a report with a summary of its work to the governor and the appropriate committees of the legislature by December 1st of each year.

NEW SECTION. **Sec.**  A new section is added to chapter 43.101 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall, in partnership with the special resource prosecutor under section 6 of this act, develop and conduct specialized, intensive, and integrative training for persons responsible for prosecuting sexual assault cases involving adult victims.

(2) The training must:

(a) Use a victim-centered, trauma-informed approach to prosecuting sexual assaults including, but not limited to, the following goals: Recognizing the nature and consequences of victimization; prioritizing the safety and well-being of victims; and recognizing the needs of special populations;

(b) Include content on the neurobiology of trauma and trauma-informed interviewing, counseling, investigative, and prosecution techniques;

(c) Offer participants an opportunity to practice interview and trial skills, including receiving feedback from instructors;

(d) Share best practices for communicating with victims throughout the criminal justice process;

(e) Include additional content relevant to and informed by best practices for improving outcomes in sexual assault prosecutions, as deemed appropriate by the commission;

(f) Take into account the training under RCW 43.101.272 in order to provide consistent and complimentary training for investigators and prosecutors;

(g) Be designed to qualify for some continuing legal education credits through the Washington state bar association; and

(h) Be offered at least once per calendar year and be deployed in different locations across the state, or through some other broadly accessible means, in order to improve access to the training for prosecutors serving in small offices or rural areas.

**PART III**

**FORENSIC EXAMINATIONS AND EVIDENCE**

**Sec.**  RCW 7.68.170 and 1979 ex.s. c 219 s 11 are each amended to read as follows:

(1) No costs incurred by a hospital or other emergency medical facility located in the state for the examination of the victim of a sexual assault, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault, regardless of whether the victim is a state resident. Such costs shall be paid by the state pursuant to this chapter.

(2) A sexual assault victim who is a state resident and who receives an examination performed for the purposes of gathering evidence for possible prosecution by a hospital or other emergency medical facility located outside of the state may seek reimbursement for any costs charged to him or her by the hospital or facility, and those costs shall be reimbursed by the state pursuant to this chapter. The department may establish arrangements with any hospital or facility located out of state to allow costs for examinations of state residents to be paid according to the same procedures under subsection (1) of this section so as to prevent such residents from being charged directly or indirectly for the examination.

**Sec.**  RCW 43.43.545 and 2020 c 26 s 6 are each amended to read as follows:

(1) The Washington state patrol shall create and operate a statewide sexual assault kit tracking system. The Washington state patrol may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

(2) The statewide sexual assault kit tracking system must:

(a) Track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;

(b) Designate sexual assault kits as unreported or reported;

(c) Indicate whether a sexual assault kit contains biological materials collected for the purpose of forensic toxicological analysis;

(d) Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the Washington state patrol bureau of forensic laboratory services, and other entities having custody of sexual assault kits to update and track the status and location of sexual assault kits;

(e) Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

(f) Use electronic technology or technologies allowing continuous access.

(3) The Washington state patrol may use a phased implementation process in order to launch the system and facilitate entry and use of the system for required participants. The Washington state patrol may phase initial participation according to region, volume, or other appropriate classifications. All entities having custody of sexual assault kits shall fully participate in the system no later than June 1, 2018. The Washington state patrol shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the joint legislative task force on sexual assault forensic examination best practices, the appropriate committees of the legislature, and the governor no later than January 1, 2017.

(4) The Washington state patrol shall submit ((~~a semiannual~~)) an annual report on the statewide sexual assault kit tracking system to the ((~~joint legislative task force on~~)) sexual assault forensic examination best practices advisory group, the appropriate committees of the legislature, and the governor. The Washington state patrol may publish the current report on its website. The ((~~first report is due July 31, 2018, and subsequent reports are~~)) annual report is due ((~~January 31st and~~)) July 31st of each year. The report must include the following:

(a) The total number of sexual assault kits in the system statewide and by jurisdiction;

(b) The total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(c) The number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(d) The total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(e) The average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(f) The average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(g) The total and semiannual number of sexual assault kits destroyed or removed from the system statewide and by jurisdiction;

(h) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(i) The total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

(5) For the purpose of reports under subsection (4) of this section, a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise having custody of the sexual assault kit.

(6) Any public agency or entity, including its officials and employees, and any hospital and its employees providing services to victims of sexual assault may not be held civilly liable for damages arising from any release of information or the failure to release information related to the statewide sexual assault kit tracking system, so long as the release was without gross negligence.

(7) The Washington state patrol shall adopt rules as necessary to implement this section.

(8) For the purposes of this section:

(a) "Reported sexual assault kit" means a sexual assault kit where a law enforcement agency has received a related report or complaint alleging a sexual assault or other crime has occurred;

(b) "Sexual assault kit" includes all evidence collected during a sexual assault medical forensic examination; and

(c) "Unreported sexual assault kit" means a sexual assault kit where a law enforcement agency has not received a related report or complaint alleging a sexual assault or other crime has occurred.

NEW SECTION. **Sec.**  A new section is added to chapter 70.02 RCW to read as follows:

A disclosure authorization to a health care provider or health care facility authorizing disclosure of information to law enforcement regarding a forensic examination performed for the purposes of gathering evidence for possible prosecution of a criminal offense must be valid until the end of all related criminal proceedings or a later event selected by the provider, facility, patient, or patient's representative, unless the patient or patient's representative requests a different expiration date or event for the disclosure authorization.

**PART IV**

**SERVICES AND SUPPORT FOR VICTIMS**

**Sec.**  RCW 7.68.380 and 2020 c 331 s 2 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department of children, youth, and families shall administer funding for ((~~two~~)) receiving center programs for commercially sexually exploited children. ((~~One~~)) At least one of these programs must be located west of the crest of the Cascade mountains, and at least one of these programs must be located east of the crest of the Cascade mountains. Law enforcement and service providers may refer children to these programs or children may self-refer into these programs.

(2) ((~~The receiving center programs established under this section shall:~~

~~(a) Begin providing services by January 1, 2021;~~

~~(b) Utilize existing facilities and not require the construction of new facilities; and~~

~~(c) Provide ongoing case management for all children who are being served or were served by the programs.~~

~~(3)~~)) The receiving centers established under this section shall:

(a) Include a short-term evaluation function that is accessible twenty-four hours per day seven days per week that has the capacity to evaluate the immediate needs of commercially sexually exploited children ages twelve through seventeen and either meet those immediate needs or refer those children to the appropriate services;

(b) Assess children for mental health and substance use disorder needs and provide appropriate referrals as needed; ((~~and~~))

(c) Provide individual and group counseling focused on developing and strengthening coping skills, and improving self-esteem and dignity;

(d) Provide shelter and services within the receiving center for up to seven days; and

(e) Provide ongoing case management for all children who are being served or were served by the programs.

((~~(4)~~)) (3) The department of children, youth, and families shall:

(a) Collect nonidentifiable demographic data of the children served by the programs established under this section;

(b) Collect data regarding the locations that children exit to after being served by the programs; and

(c) Report the data described in this subsection along with recommendations for modification or expansion of these programs to the relevant committees of the legislature by December 1, 2022.

((~~(5)~~)) (4) For the purposes of this section, the following definitions apply:

(a) "Receiving center" means a trauma-informed, secure location that meets the multidisciplinary needs of commercially sexually exploited children ages twelve through seventeen located in a behavioral health agency licensed or certified under RCW 71.24.037 to provide inpatient or residential treatment services; and

(b) "Short-term evaluation function" means a short-term emergency shelter that is accessible twenty-four hours per day seven days per week that has the capacity to evaluate the immediate needs of commercially sexually exploited children under age eighteen and either meet those immediate needs or refer those children to the appropriate services.

((~~(6)(a)~~)) (5) The department of children, youth, and families, the department of health, and the division of behavioral health and recovery, shall meet to coordinate the implementation of receiving centers as provided for in this section, including developing eligibility criteria for serving commercially sexually exploited children that allows referral from service providers and prioritizes referral from law enforcement.

((~~(b) By December 1, 2020, and in compliance with RCW 43.01.036, the department of children, youth, and families shall submit a report to the governor and legislature summarizing the implementation plan and eligibility criteria as described in (a) of this subsection, and provide any additional policy recommendations regarding receiving centers as it deems necessary.~~))

NEW SECTION. **Sec.**  A new section is added to chapter 7.68 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a program for counseling services for victims of sexual assault whose sexual assault kits were in the statewide testing backlog.

(2) To be eligible for benefits under the program established in this section, the victim of sexual assault must have undergone a forensic examination prior to July 24, 2015, and the sexual assault kit collected during the forensic examination must have been tested on or after July 24, 2015. Any other eligibility requirements and restrictions under this chapter do not apply for the purposes of the program under this section.

(3) Any victim eligible for benefits under the program may receive up to six counseling sessions in the 12 months following his or her application for benefits. Fees for such counseling must be determined by the department. Benefits under this program are not subject to the requirements in RCW 7.68.130. Costs may be billed or charged by the provider or facility to the department, and such costs must be paid by the department pursuant to this chapter. Otherwise, the department shall reimburse the victim for any costs charged directly to him or her by the provider or facility.

(4) This section expires July 1, 2028.

**Sec.**  RCW 43.185C.260 and 2020 c 331 s 8 are each amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement.

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department of children, youth, and families with a copy of the officer's report if the youth is in the care of or receiving services from the department of children, youth, and families.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of children, youth, and families.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 43.185C.265.

(7) If a law enforcement officer takes a juvenile into custody pursuant to subsection (1)(b) of this section and reasonably believes that the juvenile may be the victim of sexual exploitation, the officer shall:

(a) Transport the child to:

(i) An evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in RCW 7.68.380, for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment; ((~~or~~))

(ii) Another appropriate youth-serving entity or organization including, but not limited to:

(A) A HOPE Center as defined under RCW 43.185C.010;

(B) A foster family home as defined under RCW 74.15.020;

(C) A crisis residential center as defined under RCW 43.185C.010; or

(D) A community-based program that has expertise working with adolescents in crisis; or

(iii) A parent or legal guardian; or

(b) Coordinate transportation to one of the locations identified in (a) of this subsection, with a liaison dedicated to serving commercially sexually exploited children established under RCW 74.14B.070 or a community service provider.

(8) Law enforcement shall have the authority to take into protective custody a child who is or is attempting to engage in sexual conduct with another person for money or anything of value for purposes of investigating the individual or individuals who may be exploiting the child and deliver the child to an evaluation and treatment facility as defined in RCW 71.34.020, including the receiving centers established in RCW 7.68.380, for purposes of evaluation for behavioral health treatment authorized under chapter 71.34 RCW, including adolescent-initiated treatment, family-initiated treatment, or involuntary treatment.

(9) No child may be placed in a secure facility except as provided in this chapter.

**PART V**

**RIGHTS OF VICTIMS, SURVIVORS OF VICTIMS, AND WITNESSES OF CRIMES**

**Sec.**  RCW 7.69.030 and 2022 c 229 s 1 are each amended to read as follows:

(1) There shall be a reasonable effort made to ensure that victims, survivors of victims, and witnesses of crimes have the following rights, which apply to any ((~~criminal court and/or juvenile court proceeding~~)) adult or juvenile criminal proceeding and any civil commitment proceeding under chapter 10.77 or 71.09 RCW:

((~~(1)~~)) (a) With respect to victims of violent or sex crimes, to receive, at the time of reporting the crime to law enforcement officials, a written statement of the rights of crime victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county;

((~~(2)~~)) (b) To be informed by local law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim, survivor, or witness is involved;

((~~(3)~~)) (c) To be notified by the party who issued the subpoena that a court proceeding to which they have been subpoenaed will not occur as scheduled, in order to save the person an unnecessary trip to court;

((~~(4)~~)) (d) To receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts, and to be provided with information as to the level of protection available;

((~~(5)~~)) (e) To be informed of the procedure to be followed to apply for and receive any witness fees to which they are entitled;

((~~(6)~~)) (f) To be provided, whenever practical, a secure waiting area during court proceedings that does not require them to be in close proximity to defendants and families or friends of defendants;

((~~(7)~~)) (g) To have any stolen or other personal property expeditiously returned by law enforcement agencies or the superior court when no longer needed as evidence. When feasible, all such property, except weapons, currency, contraband, property subject to evidentiary analysis, and property of which ownership is disputed, shall be photographed and returned to the owner within ten days of being taken;

((~~(8)~~)) (h) To be provided with appropriate employer intercession services to ensure that employers of victims, survivors of victims, and witnesses of crime will cooperate with the criminal justice process or the civil commitment process under chapter 10.77 or 71.09 RCW in order to minimize an employee's loss of pay and other benefits resulting from court appearance;

((~~(9)~~)) (i) To access to immediate medical assistance and not to be detained for an unreasonable length of time by a law enforcement agency before having such assistance administered. However, an employee of the law enforcement agency may, if necessary, accompany the person to a medical facility to question the person about the criminal incident if the questioning does not hinder the administration of medical assistance. Victims of domestic violence, sexual assault, or stalking, as defined in RCW 49.76.020, shall be notified of their right to reasonable leave from employment under chapter 49.76 RCW;

((~~(10)~~)) (j) With respect to victims of violent and sex crimes, to have a crime victim advocate from a crime victim/witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim. This subsection applies if practical and if the presence of the crime victim advocate or support person does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the crime victim;

((~~(11)~~)) (k) With respect to victims and survivors of victims, to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified;

((~~(12)~~)) (l) With respect to victims and survivors of victims in any felony case ((~~or~~)), any case involving domestic violence, or any final determination under chapter 10.77 or 71.09 RCW, to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing or disposition hearing upon request by a victim or survivor;

((~~(13)~~)) (m) To submit a victim impact statement or report to the court, with the assistance of the prosecuting attorney if requested, which shall be included in all presentence reports and permanently included in the files and records accompanying the offender committed to the custody of a state agency or institution;

((~~(14)~~)) (n) With respect to victims and survivors of victims in any felony case or any case involving domestic violence, to present a statement, personally or by representation, at the sentencing hearing; and

((~~(15)~~)) (o) With respect to victims and survivors of victims, to entry of an order of restitution by the court in all felony cases, even when the offender is sentenced to confinement, unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment.

(2) If a victim, survivor of a victim, or witness of a crime is denied a right enumerated in this section, he or she may seek an order directing compliance by the relevant party or parties by filing a petition in the superior court in the county in which the crime occurred and providing notice of such petition to the relevant party or parties. Compliance with the right is the sole available remedy. The court shall expedite consideration of a petition filed under this subsection.

**PART VI**

**MISCELLANEOUS**

NEW SECTION. **Sec.**  RCW 43.101.270 (Sexual assault—Training for investigating and prosecuting) and 2015 c 286 s 2 & 1991 c 267 s 2 are each repealed.

NEW SECTION. **Sec.**  Section 8 of this act takes effect July 1, 2024.

**--- END ---**